

SENATE BILL 70

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By: **Senator Kelley**

Introduced and read first time: January 16, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Permanency Planning and Guardianship Review Hearings –**
3 **Court Procedures**

4 FOR the purpose of establishing certain methods by which the juvenile court, in
5 certain permanency planning and guardianship review hearings, may satisfy
6 the requirement that the court consult on the record with the child under
7 certain circumstances; and generally relating to permanency planning and
8 guardianship review hearings.

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–823(b), (c), and (h)(1)
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2011 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 3–823(k)
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2011 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Family Law
21 Section 5–326(a)(1) and (2)
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2011 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Family Law
26 Section 5–326(c)
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2006 Replacement Volume and 2011 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Courts and Judicial Proceedings**

5 3–823.

6 (b) (1) The court shall hold a permanency planning hearing to determine
7 the permanency plan for a child:

8 (i) No later than 11 months after a child committed under
9 § 3–819 of this subtitle or continued in a voluntary placement under § 3–819.1(b) of
10 this subtitle enters an out-of-home placement; or

11 (ii) Within 30 days after the court finds that reasonable efforts
12 to reunify a child with the child’s parent or guardian are not required based on a
13 finding that a circumstance enumerated in § 3–812 of this subtitle has occurred.

14 (2) For purposes of this section, a child shall be considered to have
15 entered an out-of-home placement 30 days after the child is placed into an
16 out-of-home placement.

17 (3) If all parties agree, a permanency planning hearing may be held on
18 the same day as the reasonable efforts hearing.

19 (c) (1) On the written request of a party or on its own motion, the court
20 may schedule a hearing at any earlier time to determine a permanency plan or to
21 review the implementation of a permanency plan for any child committed under
22 § 3–819 of this subtitle.

23 (2) A written request for review shall state the reason for the request
24 and each issue to be raised.

25 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this
26 paragraph, the court shall conduct a hearing to review the permanency plan at least
27 every 6 months until commitment is rescinded or a voluntary placement is terminated.

28 (ii) The court shall conduct a review hearing every 12 months
29 after the court determines that the child shall be continued in out-of-home placement
30 with a specific caregiver who agrees to care for the child on a permanent basis.

31 (iii) 1. Unless the court finds good cause, a case shall be
32 terminated after the court grants custody and guardianship of the child to a relative or
33 other individual.

1 2. If the court finds good cause not to terminate a case,
2 the court shall conduct a review hearing every 12 months until the case is terminated.

3 3. The court may not conclude a review hearing under
4 subsubparagraph 2 of this subparagraph unless the court has seen the child in person.

5 (k) (1) At least every 12 months at a hearing under this section, the court
6 shall consult on the record with the child in an age-appropriate manner.

7 **(2) (I) IF THE COURT DETERMINES THAT THE CHILD IS**
8 **MEDICALLY FRAGILE AND THAT IT IS DETRIMENTAL TO THE CHILD'S PHYSICAL**
9 **OR MENTAL HEALTH TO BE TRANSPORTED TO THE COURTHOUSE, THE COURT**
10 **MAY:**

11 **1. VISIT THE CHILD AT THE CHILD'S PLACEMENT**
12 **AND USE APPROPRIATE TECHNOLOGY TO DOCUMENT THE CONSULTATION FOR**
13 **THE RECORD; OR**

14 **2. SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH**
15 **(II) OF THIS PARAGRAPH, USE VIDEO CONFERENCING TO CONSULT WITH THE**
16 **CHILD ON THE RECORD DURING THE HEARING.**

17 **(II) IF THE COURT USES VIDEO CONFERENCING UNDER**
18 **SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE COURT SHALL GIVE EACH PARTY**
19 **NOTICE AND AN OPPORTUNITY TO ATTEND THE VIDEO CONFERENCING, UNLESS**
20 **THE COURT DETERMINES THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD**
21 **FOR A PARTY TO ATTEND THE VIDEO CONFERENCING.**

22 **(3) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS**
23 **SUBSECTION, IF THE CHILD'S PLACEMENT IS OUTSIDE THE STATE AND THE**
24 **COURT DETERMINES THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO**
25 **BE TRANSPORTED TO THE COURT, THE COURT MAY USE VIDEO CONFERENCING**
26 **TO CONSULT WITH THE CHILD ON THE RECORD DURING THE HEARING.**

27 **Article – Family Law**

28 5–326.

29 (a) (1) A juvenile court shall hold:

30 (i) an initial guardianship review hearing as scheduled under §
31 5–324(b)(1)(vi) of this subtitle to establish a permanency plan for the child; and

1 (ii) at least once each year after the initial guardianship review
2 hearing until the juvenile court's jurisdiction terminates, a guardianship review
3 hearing.

4 (2) At each guardianship review hearing, a juvenile court shall
5 determine whether:

6 (i) the child's current circumstances and placement are in the
7 child's best interests;

8 (ii) the permanency plan that is in effect is in the child's best
9 interests; and

10 (iii) reasonable efforts have been made to finalize the
11 permanency plan that is in effect.

12 (c) (1) At least every 12 months at a hearing under this section, the court
13 shall consult on the record with the child in an age-appropriate manner.

14 (2) (I) IF THE COURT DETERMINES THAT THE CHILD IS
15 MEDICALLY FRAGILE AND THAT IT IS DETRIMENTAL TO THE CHILD'S PHYSICAL
16 OR MENTAL HEALTH TO BE TRANSPORTED TO THE COURTHOUSE, THE COURT
17 MAY:

18 1. VISIT THE CHILD AT THE CHILD'S PLACEMENT
19 AND USE APPROPRIATE TECHNOLOGY TO DOCUMENT THE CONSULTATION FOR
20 THE RECORD; OR

21 2. SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH
22 (II) OF THIS PARAGRAPH, USE VIDEO CONFERENCING TO CONSULT WITH THE
23 CHILD ON THE RECORD DURING THE HEARING.

24 (II) IF THE COURT USES VIDEO CONFERENCING UNDER
25 SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE COURT SHALL GIVE EACH PARTY
26 NOTICE AND AN OPPORTUNITY TO ATTEND THE VIDEO CONFERENCING, UNLESS
27 THE COURT DETERMINES THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD
28 FOR A PARTY TO ATTEND THE VIDEO CONFERENCING.

29 (3) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS
30 SUBSECTION, IF THE CHILD'S PLACEMENT IS OUTSIDE THE STATE AND THE
31 COURT DETERMINES THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO
32 BE TRANSPORTED TO THE COURT, THE COURT MAY USE VIDEO CONFERENCING
33 TO CONSULT WITH THE CHILD ON THE RECORD DURING THE HEARING.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.